S.B. CIVIL WRIT PETITION NO.1746/2005.
(MUSTAQUE AHMED V. THE STATE OF RAJASTHAN & OTHERS)

DATE OF ORDER: : MARCH 29, 2005.

PRESENT.

HON'BLE MR. JUSTICE R.P.VYAS

Mr. G.M.Khan, for Petitioner.

This writ petition is directed against the non-payment of subsistence allowance during the period of suspension from 20.12.2001 to 31.7.2003 as well as the denial of the pensionary benefits to the petitioner. It is prayed that other benefits, which are admissible to the petitioner, may also be given to him. It is also prayed that 18% interest from the date of pension, i.e., 31.7.2003, may be awarded to the petitioner.

Brief facts of the case giving rise to the instant petition are that on 30.1.1975, the petitioner was initially appointed as Executive Officer in Local Self Government Department. He discharged his duties on that post, at different places, from 1975 to 1999.

On 19.8.1999, while he was working as Executive Officer, Nagarpalika Mandal, Parbatsar, a trap was laid by the Anti-Corruption Bureau (ACB), at Nagarpalika, Parbatsar. It is alleged that the currency notes were recovered from the "verandah", whereas, according to the petitioner, these currency notes were not accepted by him, but were thrown by the

complainant – Vijay Kumar himself.

On the basis of these facts, FIR No.152/99 under Sections 7, 13 (1) (D) (2) of the Prevention of Corruption Act, 1988 (hereinafter referred to as 'the Act, 1988) was filed.

After filing the FIR, investigation was started and challan was filed against petitioner before the Special Judge, ACB Cases, Jodhpur.

During the course of trial, the petitioner was acquitted from the charge under Sections 7, 13 (1) (D) (2) of the Act, 1988 by the Special Judge, ACB Cases, Jodhpur, vide his judgment dated 31.8.2004 (Annexure 4) in Sessions Case No.5/2003.

It is submitted by the learned counsel for the petitioner that during the course of investigation, the petitioner was placed under suspension vide order dated 20.12.2001 (Annexure 1) under Rule 13 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 (for brevity, 'the CCA Rules, 1958').

It is further submitted by the learned counsel for the petitioner that during the period of suspension, the petitioner was paid subsistence allowance at the rate of one half of the basic pay, which was, later on, extended upto 3/4th of the basic pay vide order dated 2.12.2002 (Annexure 2).

It is also submitted by the learned counsel for the petitioner that during the pendency of the trial, the petitioner

reached the age of superannuation and he was retired from service on 31.7.2003 vide order dated 23.9.2002 (Annexure 3).

The main grievance of the petitioner is that despite his acquittal in Criminal Case No.5/2003 by the Special Judge, ACB Cases, Jodhpur, vide his judgment dated 31.8.2004 (Annexure 4), he has not been granted pensionary benefits by the Respondents.

On 4.9.2004, the petitioner submitted an application (Annexure 5) before the Respondent No.2 – the Director, Local Self Government, Rajasthan, Jaipur, along with a certified copy of the judgment dated 31.8.2004 (Annexure 4) and requested him to grant all the pensionary benefits to the petitioner. The Respondent No.2 has, however, sought report from the Deputy Director, ACB, Jaipur and the Additional Superintendent of Police, ACB, Ajmer as well as the Deputy Superintendent of Police, ACB, Nagaur, but niehter any action has been taken on his application (Annexure 5), till today, by the Competent Authority (Respondent No.2), nor the pensionary benefits, which are legally permissible to him as per Rules, have been provided to him.

During the course of arguments, at the admission stage, learned counsel for the petitioner submitted that the Respondents may be directed to consider the representation (Annex.5) of the petitioner and redress his grievance.

Taking into consideration all the facts and circumstances of

the case and in order to meet the ends of justice, I deem it just and proper to direct the Respondent No.2 – the Director, Local Self Government Department, Rajasthan, Jaipur, to consider and decide the representation dated 4.9.2004 (Annexure 5),of the petitioner, as well as the fresh representation, if any, submitted by him within a period of three months from the date of receipt of a certified copy of this order, strictly in accordance with law. If the petitioner is entitled to get all the pensionary benefits, then the same may be granted to him and if he is not entitled to get any relief, then a reasoned and speaking order, strictly in accordance with law, may be passed.

With the above observations, the writ petition stands disposed of. There will be no order as to costs.

(R.P.VYAS),J.

RM/scd.